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HOUSE BILL 293

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Eric A. Youngberg

AN ACT

RELATING TO CRIMINAL SENTENCING; AMENDING THE DEFINITION OF
"VIOLENT FELONY" FOR THE PURPOSE OF SENTENCING A PERSON
CONVICTED OF THREE VIOLENT FELONIES TO A TERM OF LIFE
IMPRISONMENT; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-18-15.2 NMSA 1978 (being Laws 1993,
Chapter 77, Section 1, as amended) is amended to read:

"31-18-15.2. DEFINITIONS. -- As used in the Criminal
Sentencing Act:

A. "great bodily harm" means an injury to a person
that creates a high probability of death or that causes serious
disfigurement or that results in permanent loss or impairment
of the function of any member or organ of the body;

[A.] B. "serious youthful offender" means an

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1 individual fifteen to eighteen years of age who is charged with
2 and indicted or bound over for trial for first degree murder;
3 and

4 ~~[B-]~~ C. "youthful offender" means a delinquent
5 child subject to adult or juvenile sanctions who is:

6 (1) fourteen to eighteen years of age at the
7 time of the offense and who is adjudicated for at least one of
8 the following offenses:

9 (a) second degree murder, as provided in
10 Section 30-2-1 NMSA 1978;

11 (b) assault with intent to commit a
12 violent felony, as provided in Section 30-3-3 NMSA 1978;

13 (c) kidnapping, as provided in Section
14 30-4-1 NMSA 1978;

15 (d) aggravated battery, as provided in
16 Subsection C of Section 30-3-5 NMSA 1978;

17 (e) aggravated battery upon a peace
18 officer, as provided in Subsection C of Section 30-22-25 NMSA
19 1978;

20 (f) shooting at a dwelling or occupied
21 building or shooting at or from a motor vehicle, as provided in
22 Section 30-3-8 NMSA 1978;

23 (g) dangerous use of explosives, as
24 provided in Section 30-7-5 NMSA 1978;

25 (h) criminal sexual penetration, as

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1 provided in Section 30-9-11 NMSA 1978;

2 (i) robbery, as provided in Section
3 30-16-2 NMSA 1978;

4 (j) aggravated burglary, as provided in
5 Section 30-16-4 NMSA 1978;

6 (k) aggravated arson, as provided in
7 Section 30-17-6 NMSA 1978; or

8 (l) abuse of a child that results in
9 great bodily harm or death to the child, as provided in Section
10 30-6-1 NMSA 1978;

11 (2) fourteen to eighteen years of age at the
12 time of the offense and adjudicated for any felony offense and
13 who has had three prior, separate felony adjudications within a
14 three-year time period immediately preceding the instant
15 offense. The felony adjudications relied upon as prior
16 adjudications shall not have arisen out of the same transaction
17 or occurrence or series of events related in time and location.
18 Successful completion of consent decrees is not considered a
19 prior adjudication for the purposes of this paragraph; or

20 (3) fourteen years of age and adjudicated for
21 first degree murder, as provided in Section 30-2-1 NMSA 1978. "

22 Section 2. Section 31-18-23 NMSA 1978 (being Laws 1994,
23 Chapter 24, Section 2, as amended) is amended to read:

24 "31-18-23. THREE VIOLENT FELONY CONVICTIONS-- MANDATORY
25 LIFE IMPRISONMENT-- EXCEPTION. --

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1 A. When a defendant is convicted of a third violent
2 felony, and each violent felony conviction is part of a
3 separate transaction or occurrence, and at least the third
4 violent felony conviction is in New Mexico, the defendant
5 shall, in addition to the sentence imposed for the third
6 violent conviction when that sentence does not result in death,
7 be punished by a sentence of life imprisonment. The life
8 imprisonment sentence shall be subject to parole pursuant to
9 the provisions of Section 31-21-10 NMSA 1978.

10 B. The sentence of life imprisonment shall be
11 imposed after a sentencing hearing, separate from the trial or
12 guilty plea proceeding resulting in the third violent felony
13 conviction, pursuant to the provisions of Section 31-18-24 NMSA
14 1978.

15 C. For the purpose of this section, a violent
16 felony conviction incurred by a defendant before he reaches the
17 age of eighteen shall not count as a violent felony conviction.

18 D. When a defendant has a felony conviction from
19 another state, the felony conviction shall be considered a
20 violent felony for the purposes of the Criminal Sentencing Act
21 if that crime would be considered a violent felony in New
22 Mexico.

23 E. As used in ~~[the Criminal Sentencing Act:~~
24 ~~(1) "great bodily harm" means an injury to the~~
25 ~~person that creates a high probability of death or that causes~~

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1 ~~serious disfigurement or that results in permanent loss or~~
2 ~~impairment of the function of any member or organ of the body;~~
3 ~~and~~

4 ~~(2)] this section and Section 31-18-24 NMSA~~
5 ~~1978, "violent felony" means~~

6 ~~[(a) murder in the first or second~~
7 ~~degree, as provided in Section 30-2-1 NMSA 1978;~~

8 ~~(b) shooting at or from a motor vehicle~~
9 ~~resulting in great bodily harm, as provided in Subsection B of~~
10 ~~Section 30-3-8 NMSA 1978;~~

11 ~~(c) kidnapping resulting in great bodily~~
12 ~~harm inflicted upon the victim by his captor, as provided in~~
13 ~~Subsection B of Section 30-4-1 NMSA 1978; and~~

14 ~~(d) criminal sexual penetration, as~~
15 ~~provided in Subsection C or Paragraph (5) or (6) of Subsection~~
16 ~~D of Section 30-9-11 NMSA 1978; and~~

17 ~~(e) robbery while armed with a deadly~~
18 ~~weapon resulting in great bodily harm as provided in Section~~
19 ~~30-16-2 NMSA 1978 and Subsection A of Section 30-1-12 NMSA~~
20 ~~1978] a first or second degree felony that involves the use or~~
21 ~~threatened use of force or violence."~~

22 Section 2. EFFECTIVE DATE. --The effective date of the
23 provisions of this act is July 1, 2003.